



OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS  
JOHN CORNYN

December 8, 1999

Mr. Charles J. Breaux, Jr.  
Administrative Assistant to the Sheriff  
County of Jefferson  
1001 Pearl Street  
Beaumont, Texas 77701

Dear Mr. Breaux:

Enclosed please find a corrected copy of ID# 128773 (OR99-3250). The original document sent to you inadvertently contained the wrong address on page 1. We apologize for any inconvenience this oversight may have caused.

Sincerely,

Leslie Pruski  
Secretary to:  
Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/ljp

Ref: ID#s 128773

cc: Mr. Allen P. Soape, Jr.  
P.O. Box 1054  
Huntington, Texas 75949



November 15, 1999

Mr. Charles J. Breaux, Jr.  
Administrative Assistant to the Sheriff  
1001 Pearl Street  
Beaumont, Texas 77701

OR99-3250

Dear Mr. Breaux:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID#128773.

The Jefferson County Sheriff's Office (the "sheriff's office") received a request for "all information in the investigative records and/or files," as well as "all information . . . contained in any other files and/or records," regarding Criminal Case number B95-38551." In response to the request, you submit to this office for review 11 pages which you assert are responsive.<sup>1</sup> You claim that the requested information is excepted from disclosure under sections 552.101 and 552.112 of the Government Code. We have considered the exceptions and arguments you raise, and have reviewed the information submitted.

As you have noted, this office has previously ruled on the required public release of the requested information. *See* Open Records Letter No. 97-2551 (1997). In the specified prior ruling, our office concluded that since the defendant had filed a notice of appeal of his conviction, the sheriff's office could withhold most the requested records, except for basic information, from the requestor based on section 552.108(a)(1). In this instance, you have not cited to section 552.108 of the Government Code as an applicable exception.<sup>2</sup>

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<sup>1</sup>We assume that you will release other responsive records to the extent they exist, since you have not raised any other exception for the remaining information. We note that to the extent the responsive records contain confidential information, we advise you to exercise caution in releasing the information to the public. *See* Gov't Code § 552.352.

<sup>2</sup>We note that this office held that, under the predecessor statute to section 552.108, "the need of a governmental body, other than the body that has failed to timely seek an open records decision, may, in appropriate circumstances be a compelling reason for non-disclosure." Open Records Decision No. 586 (1991).

You contend that Exhibit A is excepted from disclosure pursuant to section 552.112. Section 552.112(a) excepts from disclosure “information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.” You have not cited to any source of law which authorizes the sheriff’s office as an “agency responsible for the regulation or supervision of financial institutions.” Under the facts presented, we conclude that the sheriff’s office is not an authorized agency within the scope of section 552.112. Therefore, the submitted information may not be withheld under this exception.

We next consider the applicability of section 552.101 of the Government Code to the submitted records. Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by common-law privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information must be withheld from public disclosure under a common-law right of privacy when the information is (1) highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992).

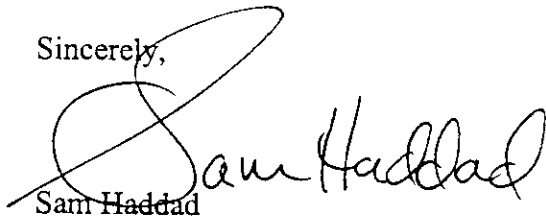
Financial information relating to an individual, including sources of income, salary, and debts, generally satisfies the first prong of the test for common-law privacy. Open Records Decision No. 373 at 3 (1983). A portion of the information at issue, in Exhibit A, concerns the private decisions of individuals. Furthermore, this office has concluded that there is no legitimate public interest in private financial decisions. Open Records Decision No. 600 (1992). We conclude that the marked information within Exhibit A is subject to section 552.101 in conjunction with common-law privacy. Therefore, the marked information must be withheld under section 552.101 and privacy.

Section 552.101 encompasses information protected by other statutes. If the information submitted for our review contains criminal history record information (“CHRI”) that is generated by the Texas Crime Information Center (“TCIC”) or the National Crime Information Center (“NCIC”) it must not be publicly released. The dissemination of CHRI obtained from the NCIC network is limited by federal law. *See* 28 C.F.R. § 20.1; Open Records Decision No. 565 at 10-12 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 at 10-12 (1990). Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release the CHRI except to another criminal justice agency for a criminal justice purpose, Gov’t Code § 411.089(b)(1). Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. Furthermore, any CHRI obtained from the Texas Department of Public Safety or any other

criminal justice agency must be withheld as provided by Government Code chapter 411, subchapter F. Therefore, any CHRI that falls within the ambit of these state and federal regulations must be withheld from the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is written in a cursive, flowing style with a large initial "S".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/ljp

Ref.: ID# 128773

Encl. Submitted documents

cc: Mr. Allen P. Soape, Jr.  
P.O. Box 1054  
Huntington, Texas 75949  
(w/o enclosures)